

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

James M. Flemming, #229516,)	Case No.: 4:19-cv-03373-JD-TER
)	
Plaintiff,)	
)	
vs.)	
)	OPINION & ORDER
Officer Kelly J. Reynolds, Sgt. Linen, and Capt. Linen,)	
)	
)	
Defendants.)	
)	

This matter is before the Court with the Report and Recommendation of United States Magistrate Thomas E. Rogers, III (“Report and Recommendation”), made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02(B)(2) of the District of South Carolina.¹ Plaintiff James Michael Flemming (“Plaintiff”), proceeding *pro se*, seeks damages related to Defendants Officer Kelly J. Reynolds (“Reynolds”) who was previously dismissed from this case (DE 116), Sgt. Linen (“Linen”), and Capt. Linen’s (excluding Reynolds, collectively “Defendants”) alleged cruel and unusual punishment and deliberate indifference stemming from Plaintiff’s time at the Gilliam Psychiatric Hospital, which is a part of Kirkland Correctional Institution.

Plaintiff filed a Complaint against Defendants on December 3, 2019. (DE 1.) The Court issued several Proper Form Orders advising Plaintiff to correct deficiencies and file an Amended

¹ The recommendation has no presumptive weight, and the responsibility for making a final determination remains with the United States District Court. See Mathews v. Weber, 423 U.S. 261, 270-71 (1976). The Court is charged with making a de novo determination of those portions of the Report and Recommendation to which specific objection is made. The Court may accept, reject, or modify, in whole or in part, the recommendation made by the magistrate judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

Complaint. (DE 7, 16, and 62.) Plaintiff filed two Amended Complaints. (DE 10 and 82.) Plaintiff alleges that Reynolds engaged in conversations with him that were of a sexual nature and told him that she loved him. Plaintiff alleges that Linen “got confirmation” of what was said to him by Reynolds but that she failed to inform the proper personnel or do an incident report. Plaintiff further alleges that, in addition to engaging him in conversations of an “inappropriate sexual nature,” Reynolds “coerced [him] into masturbating while she watched.” As to Defendant Holsinger, Plaintiff alleges that she was told by staff that Plaintiff and Reynolds “were having inappropriate conversations of [a] sexual nature,” yet she failed to report it to the proper personnel. (DE 82, pp. 5-6.) Plaintiff alleges that Defendants subjected him to cruel and unusual punishment and deliberate indifference by “taking the law in [their] own hands” and failing to report a PREA incident. (DE 82, p. 4.) Plaintiff’s Amended Complaint seeks monetary damages, totaling \$140,000. (DE 82, p. 9.)

On June 29, 2021, the Magistrate Judge issued a Report and Recommendation, recommending that Defendants’ Motion for Judgment on the Pleadings be granted, Plaintiff’s Motion for Summary Judgment be denied, and this case be dismissed. (DE 125.)

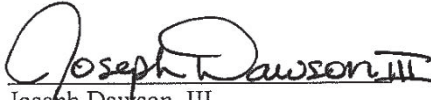
The Plaintiff filed no objections to the Report and Recommendation. In the absence of objections to the Report and Recommendation, this Court is not required to give any explanation for adopting the recommendation. See Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983). The Court must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

After a thorough review of the Report and Recommendation and the record in this case, the Court adopts the Report and Recommendation and incorporates it herein.

It is, therefore, **ORDERED** that Defendants' Motion for Judgment on the Pleadings (DE 88) be granted, Plaintiff's Motion for Summary Judgment (DE 109) be denied, and this case be dismissed in its entirety.

IT IS SO ORDERED.

Greenville, South Carolina
July 23, 2021


Joseph Dawson, III
United States District Judge

NOTICE OF RIGHT TO APPEAL

Plaintiff is hereby notified that he has the right to appeal this order within thirty (30) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.